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# Legal Research and Legal Education in Africa: the Challenge for Information Literacy

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**LEGAL RESEARCH AND LEGAL EDUCATION IN AFRICA:  
THE CHALLENGE FOR INFORMATION LITERACY**

By

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## **Abstract**

*This paper analyses legal research within the context of legal education in Africa, it examines some of the challenges of electronic legal research in view of the influences of online legal electronic resources and Computer Assisted legal Research (CALR) and the importance of information literacy in addressing some of the issues raised especially with regards to undergraduate legal education.*

## **Introduction**

Research generally involves the ability to analyze problems, determine the information needed and effectively communicate results obtained. Legal research as defined by Frederick Hicks is “the inquiry and investigation necessary to be made by legislators, judges, lawyers and legal writers in the performance of their function” (Hicks, 1942). Black’s law dictionary (2007) gives a more practical definition when it defines legal research as “the process of identifying and retrieving law related information necessary to support legal decision-making...” Legal research, whether done in books or electronic databases, is a process of problem-solving involving a careful examination of facts and an understanding and familiarity with the nature and tools of the resources in order to implement an effective research design. Research underpins a lawyers’ ability to function competently and provide adequate representation to the client.

The structure of legal information is distinct from other disciplines, this is because it consists of a hierarchically organized information of primary and secondary sources and other search tools which are an important aid in the research process; using these sources has often presented a major challenge to the researcher in terms of understanding the complex system in which they are variously organized in an area of law. An essential first step however, is to develop an awareness of the types and relationship of these sources in the application of law.

As with other subject disciplines, legal information has been profoundly influenced by the concept of information explosion, the phenomenal growth of the legal literature resulting in a gradual shift from traditional print resources to electronic databases and the advent of Computer Assisted Legal Research (CALR) have necessitated a reconsideration by librarians and academics of the need to inculcate effective research skills in the student. The current inter-disciplinary nature of law occasioned by the rising influence of Computer Assisted Legal Research (CALR) has brought about a paradigm shift in legal research (Bast & Pyle, 2001) and (Bintliff, 2007). Hanson, (2002), notes that legal research has been fundamentally transformed by the information technology era creating a challenge for the legal information manager and an even greater challenge for the user. This development has increased the pressure on legal education to produce graduates with competent skills vital for a knowledge driven economy (O’Regan, 2002).

## **Legal research and education in Africa**

Legal education aims to prepare the student for effective legal practice. The debate on the poor research skills of law graduates has further challenged the responsibility of law schools in developing life long learning skills in undergraduate students. This debate is advocated by academics, practicing attorneys and librarians who have had the opportunity of dealing first hand with students in their scholarly pursuit. Studies have shown that most students enter into law school with poor or non-existent skills in legal research (Keefe, 2005 & Cuffe, 2002). This concern is however not limited to law students as a similar lack of general preparedness has also been noted among students of other disciplines (Mabrouk 2001), (Mizrachi 2004), (Cochrane 2006). Research undertaken to evaluate the information-seeking patterns of law students has revealed a general decline in their attitude to legal research. Kerins, Madden and Fulton (2004), in their studies on the information-seeking patterns of engineering and law students noted specifically that law students tended to have problems identifying suitable information sources for case law, legislation and journal articles. This problem, it is believed,

lies in the formal legal education where it is rare for students to carry out independent research or are taught to do so (Tunkel 1997). Barkan, (2007), notes that the curriculum of legal education in most law schools tend to receive less priority with regards to legal research as opposed to other substantive law courses and this, to a great extent, accounts for the poor research skills of students. Similar concerns have also been expressed in legal education institutions in Africa, in the past few years, persistent calls have been made for a re-structuring of the curriculum of legal education in order to equip graduates with the needed skills to meet up with current challenges of legal practice in the twenty first century. Woolfrey, (1995), notes that most undergraduate law students in Africa seem to lack an adequate theoretical framework within which to comprehend the mass of legal materials at their disposal and lack sufficient problem solving skills needed for making a smooth transition from the academic to the vocational stage. Power (2007), in a report of his visit to the faculty of Jos, Nigeria, noted the poor research skills of the students in accessing legal databases. It is apparent from these indicators that the curriculum of legal education in African universities seems to pay scant attention to the importance of legal research. It is within the purview of such expressed concerns that the relevance of the concept of information literacy in legal research has become an important subject of interest; to this end, a skills-based approach to legal education has been advocated as having a greater potential for achieving an integrative process in advancing student learning (Woolfrey, 1995). The need for a vocationally oriented legal education has led commentators to advocate that the content and curriculum of legal education in African universities should be designed in ways that help students engage in problem-solving, evaluation, critical thinking and other forms of simulated participation rather than mere information retention (Legal education in a changing world, 1975).

According to the Association of College and Research Libraries ACRL, 2000, to be information literate requires that one is able to know the needed information, identify, locate, evaluate, organize and use it effectively for problem-solving. Information explosion and the need for the ability to critically assess and evaluate a myriad of related information sources has placed the concept of information literacy at the centre of global discourse especially in higher education. Currently, concerns in information literacy are directed towards issues of research and skills acquisition in discipline related fields (Mittermeyer, 2005), this is in view of the recognition that the information structure of each discipline is strictly related to the complex nature of its resources requiring that the user has a linguistic knowledge of the discipline (Sallen, 2002). In legal research, information literacy provides a context through which essential skills training can be integrated into the teaching of law (Davies & Jackson, 2005). The strategy of information literacy ensures that standards are set that encourage students develop highly effective research skills for problem-solving by providing the opportunity for learning experiences to be created so that students can develop skills in relation to what is taught (Potter, 2000). Consequently, the need to articulate standards for integrating information literacy in the field of law has become a necessity if issues of the deficiency in the research skills of undergraduate students are to be addressed; core standards and competencies must be formulated and integrated into the basic and advanced levels of legal research.

The curriculum of legal education in higher education institutions in Africa show that limited efforts seem to have been made towards integrating information literacy into legal education. Integrating information literacy in the curriculum of legal education has a direct bearing on the legal system and the quality of legal practitioners produced; it enhances the competences of young lawyers by developing their ability to analyze and evaluate issues and complex facts from a legal perspective, respect principles of copyright and intellectual property and identify legal principles applicable to a given situation for problem-solving.

According to Woolfrey (1995), curriculum design is an area of academic development that impact on the form and quality of legal education with a direct bearing on the kind of legal system and legal practitioners that shape our future. Legal education must be rendered with a view to re-shape and re-structure the society to achieve national and socio-economic goals. Worthy of note also is the fact that the influences of globalization necessitate that African lawyers are able to provide legal services within the context of their own domestic legal systems and current social issues such as poverty alleviation, HIV/AIDs, the role of women, environmental degradation and human rights, legal education must equip students with the vision and skill to tackle such problems (McQuoid-Mason 2005). The benefits of information explosion can only be harnessed if the curriculum of legal education is re-structured to accommodate information literacy as a way of equipping law graduates with the needed skills for legal practice.

### **The information literacy challenge**

In view of the above analysis, the challenge of information literacy in legal research and legal education cannot be over emphasized. The following are some applicable areas:

- The need to create awareness: The current influx of the legal literature and the rising influence of electronic databases means that the user must be competent in the choices made from various sources, and unlike in the use of print sources, electronic legal research demands a distinctive understanding of the subject matter which often is obscured in the databases (Hanson, 2002) and (Bintliff, 2007). Information literacy instruction provides the needed skills for devising and implementing a coherent research strategy. Thus, by making information literacy a required part of legal education, African universities recognize that developing competencies in the use of Information and Communication Technology (ICT) and other electronic databases are central to the development of law students in providing them with the needed skills for life long learning.
- Globalization: The current inter-disciplinary nature of law portends the need for legal education to be rendered with a view to prepare students with the vision and ability to re-structure our society in line with the emerging global order. The influences of globalization have brought about changes in the quality and content of legal education; electronic legal resources such as Westlaw, Lexis Nexis, Hein online and other databases have transformed the composition of the legal literature resulting in the digital exclusion of most developing countries (Germain, 2007). This has wide implication for the ease of access to legal information and to the teaching and practice of law.
- Skills development is becoming a subject of increasing interest in legal education. Cuffe, (2002), notes that the deficiency in the curriculum of legal education with regards to legal research can best be addressed by integrating information literacy instruction as a compulsory research course in order to develop the ability of the student to transfer acquired skills to the legal workplace. Student-centered approaches such as problem-based and resource-based learning techniques can be adopted in the course curriculum as vehicles for promoting information literacy and as a means for developing benchmarks that define the minimum standard by which young lawyers in African universities can graduate.
- Staff development is a major challenge in supporting legal education. The demand of legal research in the twenty first century requires law librarians that are pro-active in their services and sufficiently trained to execute information literacy as an important aspect of legal practice.

- New technologies present a vast opportunity for students from their wealth of available information; however, they equally pose a great challenge on issues of copyright and intellectual property. The need for critical judgment and evaluation of accessed information has never been more urgent as in the current digital information environment. Information literacy provides the student with the skills to evaluate accessed information in ways that encourage independent inquiry while guarding against issues of copyright and plagiarism.

### **Conclusion and recommendations:**

The underlying challenge of the information society is the need to promote the development of information literate people. My research is provoked by the need to examine the current state of legal research in selected African universities with a view to identifying some of the challenges of integrating information literacy in the curriculum of legal education and encouraging life long learning and the development of critical thinking abilities among law students as a way of addressing issues of skills deficiency. The challenge to prepare students for their role in the knowledge-based economy is a vital social responsibility reflective of the efforts towards other developmental goals, undoubtedly, the increasing influence of online legal research and the skill to tap into its wealth of resources will largely determine the ability of our young lawyers to respond effectively to the legal needs that are expected to prevail in the future. For now, legal education in most higher education institutions in Africa are faced with establishing the necessary pre-conditions for information literacy initiatives (Pejova, 2002). The current state of legal education has much in common with the intellectual plight of our universities; most are faced with the crisis of financing legal education. A few recommendations that can be proffered include:

- Provision of assistance by developed countries in helping to develop faculty resources and training of staff thereby strengthening teaching and research.
- Supporting the urgency for a skills-based approach to legal education and helping to promote information literacy initiatives through active student-centered teaching methods and other problem-solving techniques.
- The cost of subscribing to online electronic legal resources are a challenge to most law schools in Africa, provision of support by donor organizations is a step ahead of other pressing needs.
- Developing more relevant local content: Most online electronic resources consist of foreign law which is much appreciated, however, there is a need for the development of local legal resources so that we can also contribute to the growth of the legal literature.

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